

## OFFICE OF THE SHERIFF

### COUNTY OF LOS ANGELES





A Tradilion of Service

**ADOPTED** 

BOARD OF SUPERVISORS COUNTY OF LOS ANGELES

39 June 8, 2016

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LORI GLASGOW EXECUTIVE OFFICER

June 08, 2016

The Honorable Board of Supervisors County of Los Angeles 383 Kenneth Hahn Hall of Administration Los Angeles, California 90012

Dear Supervisors:

# REQUEST FOR APPROVAL OF AN OTHER TRANSACTION AGREEMENT FOR TSA CERTIFIED EXPLOSIVES DETECTION CANINE TEAMS (ALL DISTRICTS) (3 VOTES)

#### **SUBJECT**

The Los Angeles County (County) Sheriff's Department (Department) is seeking the Board's approval of the Other Transaction Agreement number HSTS02-16-H-NCP439 (Agreement) with the United States Department of Homeland Security, Transportation Security Administration (TSA) for participation in the National Explosives Detection Canine Team Program (NEDCTP).

#### IT IS RECOMMENDED THAT THE BOARD:

- 1. Delegate authority to the Sheriff, as an agent of the County, to execute the attached Agreement with TSA, for a period of four years from the effective date of January 1, 2016, for participation in the NEDCTP. Department costs associated with NEDCTP will be reimbursed by TSA in the amount of \$3,989,500.
- 2. Delegate authority to the Sheriff to execute all amendments and modifications to the Agreement, as necessary, for the effective operation of NEDCTP.
- 3. Delegate authority to the Sheriff, as an agent for the County, to submit the annual close-out form at the end of every Fiscal Year (FY), as required by TSA to return any unexpended funds.

#### PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

TSA and NEDCTP trains and deploys both TSA, state and local law enforcement canine teams in support of day-to-day activities that protect the transportation domain. These highly trained explosive detection canine teams (K-9 Teams) have proven to be a reliable resource at detecting

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explosives, and providing a visible deterrent to terrorism directed towards transportation systems. TSA K-9 teams are also considered a timely and mobile response for support facilities, rail stations, airports, passenger terminals, seaports, and surface carriers. The success of the NEDCTP is a prime example of federal, state, and local government entities working together with a common goal to help secure our nation's transportation system. Due to their excellent mobility and reliable detection rates, the use of K-9 Teams has evolved to include searching areas in response to bomb threats in aviation and mass transit systems, as well as serving as general deterrents to any would-be terrorists or criminals.

The Department's Transit Policing Division (TPD) currently has 16 K-9 Teams assigned to cover the various Metro Bus, Metro Rail, and Metrolink public transportation systems. In addition to assisting TPD personnel in general law enforcement duties, K-9 Teams perform several functions, which include clearing unattended packages, responding to bomb threats, conducting pre-emptive sweeps of train stations and Metro facilities, and providing a visible deterrent to potential terrorist attacks along the Metro transit system.

K-9 Teams also participate in K-9 demonstrations (Red Ribbon week, "Bring Your Kids to Work" day, elementary school requests, Sheriff Explorer Academy, County festivals, Sheriffs Station community events, "National Night Out", Boy and Girl Scout Troop meetings, MTA Bus Rodeo etc.); Career Expos and special events (USC Football Games, Long Beach Grand Prix, LA Marathon, Dignitary Sweeps, POTUS Operations, mutual aid, and federal requests for national security events).

The following breakdown reflects the calls for service and special events handled by TPD K-9 Teams from 2013-2016:

Unattended/Suspicious packages	1,824
Bomb Threats	88
K-9 Demonstrations	30
Department Career Expos	17
Special Events	42

#### **Implementation of Strategic Plan Goals**

This Agreement relates to the County's Strategic Plan, Goal 3, Integrated Services Delivery. This Agreement leverages resources from the Department and TSA to enhance public safety services. This Agreement will provide revenue reimbursement to the Department for services rendered.

#### FISCAL IMPACT/FINANCING

TSA will pay federal funds in the amount of \$3,989,500 to defray the Department's costs directly associated with NEDCTP. Funding will be provided to the County in the form of an advance payment, and has been included in the Department's budget for FY 2015-16 and FY 2016-17.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The term of the Agreement is for four years from the effective date of January 1, 2016. Either party may terminate this Agreement with 90 calendar days advance written notice to the other party prior to the effective date of the termination.

As the contract law enforcement provider for the County's Metropolitan Transportation Authority (MTA), the Department and TSA will provide TSA K9 Teams that will be available to respond to

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transportation operating systems under the jurisdiction of the Department 24-hours a day, seven days per week, with the intent to provide maximum coverage during peak operating hours. The Department will also maintain the ability to promptly respond to threats at support facilities, rail stations, airports, passenger terminals, seaports, and surface carriers that affect public safety or transportation operations. TSA K-9 Teams will conduct training and other canine activities within view of the public, thereby providing a noticeable visible deterrent towards terrorist threats and other criminal activity. The Department agrees that these TSA K-9 Teams will be utilized at least 80 percent of their time in the transportation environment.

Board approval is required for this Agreement as the amount of the Agreement exceeds the authority previously delegated by the Board to the Sheriff on May 16, 2000.

County Counsel has approved the attached Agreement as to form.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

There will be no impact on the Department's current services. The Department will provide the personnel and resources required for participation in NEDCTP.

#### CONCLUSION

Upon Board approval, please return a copy of the adopted Board letter to the Department's Contract Law Enforcement Bureau.

Sincerely,

JIM McDONNELL

Sheriff

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**Enclosures** 





#### OTHER TRANSACTION AGREEMENT

#### **BETWEEN**

DEPARTMENT OF HOMELAND SECURITY
TRANSPORTATION SECURITY ADMINISTRATION
NATIONAL EXPLOSIVES DETECTION CANINE TEAM PROGRAM (NEDCTP)

#### AND

County of Los Angeles by/through The Sheriff's Department as the Contract Law Enforcement Provider for the Los Angeles County Metropolitan Transportation Authority

#### REGARDING

Negotiated by the TSA pursuant to
Aviation and Transportation Security Act, Pub. L. 107-71, 115 Stat. 597
49 U.S.C. § 114(m)(l), and § 106(l) (6)

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#### ARTICLE I – PARTIES

The parties to this TSA National Explosives Detection Canine Team Program (NEDCTP) Other Transaction Agreement (Agreement) are the Transportation Security Administration (TSA) and the County of Los Angeles by/through The Sheriff's Department as the contract law enforcement provider for the Los Angeles County Metropolitan Transportation Authority (hereinafter Participant). The TSA and the Participant agree to cooperate in good faith and to perform their respective obligations in executing the purpose of this Agreement.

#### ARTICLE II – AUTHORIZING LEGISLATION

- A. The Homeland Security Act of 2002, H.R. 5005-8, P.L. 107-296
- B. This Agreement is entered into under the authority of the Aviation and Transportation Security Act, Pub. L. 107-71, 115 Stat. 597, specifically 49 U.S.C. § 114(m) (1) and 106(1) (6), which authorizes other transaction agreements.

#### ARTICLE III - PROGRAM DESCRIPTION

The purpose of this Agreement is to set forth the terms and conditions for participation in the TSA NEDCTP. The Participant and the TSA agree to provide TSA certified explosives detection canine teams that will be available to respond to transportation operating systems under the jurisdiction of the Participant twenty-four (24) hours a day, seven (7) days per week, with the intent to provide maximum coverage during peak operating hours. The Participant also agrees to maintain the ability to promptly respond to threats at support facilities, rail stations, airports, passenger terminals, seaports and surface carriers that affect public safety or transportation operations. TSA canine teams will conduct training and other canine activities within view of the public, thereby providing a noticeable visible deterrent towards terrorist threats and other criminal activity. The Participant agrees that these TSA certified canine teams will be utilized at least eighty percent (80%) of their time in the transportation environment. The responsibilities and conditions described in the Statement of Joint Obligations (SOJO) are made part of this Agreement as Attachment 1. For a complete list of OTA Attachments, please refer to ARTICLE XXIII.

## ARTICLE IV – TRANSPORTATION SECURITY ADMINISTRATION OFFICIALS

The NEDCTP Branch Chief is the Program Officer (PO) and is responsible for monitoring the completion of work and technical performance of the Program or activities described in the application under the SOJO, Attachment 1.

The contact information for the PO and his alternate is listed below:

#### **NEDCTP Branch Chief**

Henry Sergent, Branch Chief Transportation Security Administration NEDCTP 1900 Oracle Way, Suite 400 Reston, VA 20598 – 6105 Phone: 703.487,0065

E-mail: henry.sergent@tsa.dhs.gov

#### **NEDCTP Contracting Officer Representative (COR)**

Michell Miley Transportation Security Administration NEDCTP 1900 Oracle Way, Suite 400 Reston, VA 20598 – 6105 Phone: 703.487.0112

E-mail: TSACanineFinance@tsa.dhs.gov

#### **NEDCTP Alternate Contracting Officer Representative (ACOR)**

Russell Smith
Transportation Security Administration
NEDCTP
1900 Oracle Way, Suite 400
Reston, VA 20598 – 6105
Phone: 703.487.0039

E-mail: TSACanineFinance@tsa.dhs.gov

#### **NEDCTP Federal Canine Coordinator**

FCC Name: Jose Prado

E-mail: jose.prado@tsa.dhs.gov

#### **TSA Contracting Officer**

The TSA Contracting Officer (CO) is the only official that has the full authority to negotiate, administer and execute all terms and conditions of the Agreement in concurrence with the Program Officer.

Kurt Allen, Contracting Officer Transportation Security Administration Office of Acquisition 601 S. 12<sup>th</sup> Street Arlington, VA 20598-6025

Phone: 202.253.4220

E-mail: Kurt.Allen@tsa.dhs.gov

#### ARTICLE V - EFFECTIVE DATE AND FUNDING PERIOD

The effective date of this Agreement is 1 January 2016. The Agreement shall be in effect for a period of four (4) years from the effective date. The Agreement shall be comprised of four (4) one (1) year funding periods, with the base year funding period beginning on the effective date. All funding is subject to the availability of funds.

#### ARTICLE VI - CONTRIBUTIONS AND FUNDING

- A. The total four (4) year estimated cost of the TSA share for the performance of this Agreement is \$3,989,500.00. The TSA share is calculated utilizing your current number of authorized teams (18) at \$50,500 per team. Only funding for the base year of performance is provided at the time of OTA award. Funding for years two (2) through four (4) will be provided via OTA modification on an annual basis.
- B. The level of funding available to each participant is a function of the number of teams the participant has deployed<sup>2</sup> in the field and not the number of authorized teams. The Program will only provide funding for deployed canine teams. As vacancies<sup>3</sup> are filled by the participant, additional funds may be added through a Modification.
- C. This Agreement is for the administration and completion of an approved DHS/TSA Program within the Program Period. Agreement funds shall not be used for other purposes.
- D. No transfer of funds to agencies other than those identified in the approved Agreement application shall be made without prior approval of the TSA CO.

#### ARTICLE VII - REQUEST FOR REIMBURSEMENT

A. The TSA will reimburse the Participant for amounts expended as outlined in Attachment 2, Reimbursable Items.

 $<sup>^{</sup>m l}$  The maximum number of teams that a participant has been approved for by the program.

The number of authorized teams that are on the ground or that have been awaiting a handler or canine for less than 90 days. 3The number of authorized teams that have never been filled or that have been awaiting a handler for more than 90 days.

- B. Payment by TSA is conditioned upon receipt by TSA of an invoice identifying project costs that have been incurred. The United States Coast Guard (USCG) Finance Center (FINCEN) performs the payment function on behalf of the TSA.
- C. The Participant shall submit a complete and accurate invoice detailing all monthly expenditures no later than thirty (30) days after the submission month to the <u>TSACanineFinance@tsa.dhs.gov</u> email address.
- D. The Participant's reimbursement request<sup>4</sup> formats are acceptable but must include, at a minimum, the following:
  - Agreement Number HSTS02-16-H-NCP439
  - Request Date
  - Tax Identification Number
  - DUNs Number
  - Dollar amount of reimbursement being requested from the TSA funding with sufficient detail of the items or services being billed for a determination of scope compliance
  - The Participant's Point of Contact with contact information
  - Signature of the Participant's authorized representative and certification language "This is to certify that all services set forth herein were performed during the period stated and that incurred costs billed were actually expended for the Project."
- E. Reimbursement requests from the Participant shall follow these procedures:
  - 1. Detailed documentation must be attached for each reimbursement item requested, including original receipts for the purchase of any items or services and appropriate payroll validation for each individual handler's salary, benefits and overtime expenses.
  - 2. Payment will be made upon receipt and review of submitted expenses by the NEDCTP Contracting Officer's Representative (COR), and TSA CO.
- F. TSA will only reimburse for costs incurred in the appropriate funding period.
- G. The final Request for Reimbursement must be received within ninety (90) days after the end of the appropriate year's funding period.
- H. Invoices must be received by the NEDCTP FCC for the entire twelve (12) month funding period, regardless of remaining funding balances. This is to capture the actual costs incurred for future analysis and planning of Program Budgets.
- I. The Participant shall not request reimbursement or incur costs or obligate funds for any

<sup>&</sup>lt;sup>4</sup>Detailed guidance for submitting reimbursement requests will be provided separately to participant's financial point of contact.

- purpose pertaining to the operation or activities of the Program prior to or beyond the expiration date of the OTA.
- J. Participant must be registered in the System for Award Management at <a href="https://www.SAM.gov">https://www.SAM.gov</a>. Participant must also update their information on an annual basis.

#### ARTICLE VIII - COST-SHARE/MATCH

This Program has no statutory formula and no matching requirements.

#### ARTICLE IX - AUDIT REQUIREMENTS

The Federal Government, including the Comptroller General of the United States, has the right to examine or audit relevant financial records for a period not to exceed three (3) years after expiration of the terms of this Agreement. The Participant and its contractors must maintain an established accounting system that complies with generally accepted accounting principles. Records related to disputes arising out of this Agreement shall be maintained and made available until such disputes have been resolved.

As used in this provision, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

The Participant shall maintain all records and other evidence sufficient to reflect costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this Agreement. The participant shall also maintain sufficient records to show that TSA certified canine teams spent eighty percent (80%) of their time in the TOS they are assigned to. The TSA Contracting Officer or the authorized representative of the TSA Contracting Officer shall have the right to examine and audit those records at any time, or from time to time. The right of examination shall include inspection at all reasonable times at the offices of the Participant.

This Article shall not be construed to require the Participant or its sub-awardees to create or maintain any record that they do not maintain in the ordinary course of business pursuant to a provision of law, provided that those entities maintain records which conform to Generally Accepted Accounting Practices (GAAP).

#### ARTICLE X. DISPUTES

- A. When possible, disputes will be resolved by informal discussion between the parties. All disputes arising under or related to this Agreement shall be resolved under this Article. Disputes, as used in this Agreement, mean a written demand or written assertion by one of the parties seeking, as a matter of right, the adjustment or interpretation of Agreement terms, or other relief arising under this Agreement. The dispute shall be made in writing and signed by a duly authorized representative of the Participant or the TSA. At a minimum, a dispute under this Agreement shall include a statement of facts, adequate supporting data and a request for relief.
- B. In the event that the parties are unable to resolve any disagreement through good faith negotiations, the dispute will be resolved by the TSA Assistant Secretary or his or her designee. The parties agree that the TSA Assistant Secretary's decision shall be final and not subject to further judicial or administrative review and shall be enforceable and binding upon the parties.

#### ARTICLE XI. TERMINATION

Either the Participant or the TSA may terminate the Agreement by giving written notice to the other party at least ninety (90) calendars days prior to the effective date of the termination. All notices are to be transmitted via registered or certified mail, return receipt requested. The Participant's authority to incur new costs will be terminated upon the date of arrival of the receipt of the letter or the date set forth in the notice. Any costs incurred up to the date of the receipt of the notice or the date of termination set forth in the notice will be negotiated for final payment.

#### ARTICLE XII. WARRANTIES

TSA makes no express or implied warranties as to any matter arising under this Agreement, or as to the merchantability, or fitness for a particular purpose of any property, including any equipment, device, or software that may be provided under this Agreement.

#### ARTICLE XIII. COPYRIGHT

The Participant is free to copyright any original work developed in the course of or under the agreement. The TSA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes. Any publication resulting from work performed under this agreement shall include an acknowledgement of TSA financial support and a statement that the publication does not necessarily reflect TSA's views.

#### ARTICLE XIV. LIMITATION OF LIABILITY

Claims for damages of any nature whatsoever pursued under this Agreement shall be limited to direct damages only up to the aggregate amount of funding obligated under this Agreement at the time the dispute arose. In no event shall the TSA or the Participant be responsible for claims for consequential, punitive, special and incidental damages, claims for lost profits, or other indirect damages.

#### ARTICLE XV. LIMITATION OF ASSIGNMENT

The Participant may not assign its rights or obligations under this Agreement to any other entity or person without the prior written consent of the TSA.

#### ARTICLE XVI. PROTECTION OF INFORMATION

The parties agree that they shall take appropriate measures to protect all proprietary, privileged, or otherwise sensitive information that may come into their possession as a result of this Agreement, including Sensitive Security Information (SSI) and operational information.

#### ARTICLE XVII. PUBLICITY

All publicity or public affairs activities related to the subject matter of this Agreement must be coordinated with the TSA Office of Strategic Communication and Public Affairs. This does not preclude the Participant's personnel from participating in public affairs activities not related to Program(s) sponsored under this award solely as agents of the Participant.

#### ARTICLE XVIII. REQUIRED FEDERAL PROCUREMENT PROVISIONS

The Participant and its contractors shall comply with the following:

- A. Title VI of the Civil Rights Act of 1964 relating to nondiscrimination in federally assisted program.
- B. Federal Acquisition Regulation Clause 52.203-11, "Certification and Disclosure Regarding Payment to Influence Certain Federal Transactions", is incorporated herein by reference into this Agreement.
- C. Contracts awarded by the Participant of this Program must comply with all provisions established by laws and statutes.

#### ARTICLE XIX - ADDITIONAL CONDITIONS

<u>FOIA</u>: All requests for information, to include those under the Freedom of Information Act (FOIA) or Privacy Acts, will be forwarded to the TSA Program Officer. The TSA Program Officer will coordinate a response with the TSA FOIA Office.

<u>Organization Staffing</u>: The Program shall be staffed and organized by the Participant to satisfy its assigned mission and to perform its required functions.

<u>Insurance</u>: The Participant shall at all times during the duration of this Agreement maintain insurance or be self-insured relating to the Program and Participant employees covering property, fire, casualty, liability, life, worker's compensation, and all other forms of insurance customarily obtained by entities in the same industry. The Participant will not insure TSA agents, contractors, or anyone else against any of these risks.

Environmental Requirements: Participants are encouraged to integrate National Environmental Policy Act (NEPA) compliance and related legislation with the initial planning and selection process for this program. Participants are encouraged to coordinate with the TSA Environmental Officers in complying with NEPA and Historic Preservation Act requirements.

<u>Local Permits</u>: Prior to the start of any construction activity, the Participant shall ensure that all applicable Federal, State, and local permits and clearances are obtained.

#### ARTICLE XX -UTILIZATION AND TRAINING REPORTS

- A. The Participant will submit the Payroll and Utilization Certification Form with their monthly reimbursement request. This form must be signed by the Participant or their designee certifying that the TSA certified explosive detection canine teams were utilized at least eighty percent (80%) of their time in the Participant's Transportation Operating System (TOS).
- B. The Participant will enter Canine team utilization records into the TSA NEDCTP Canine Website System (CWS) within seventy-two (72) hours after the actual searches are completed.
- C. The Participant will enter Canine team training records into the TSA NEDCTP CWS within seventy-two (72) hours after actual training has been completed.
- D. The participant will enter aircraft training information into the K-9 Training Aid Reporting System (KTARS) module of CWS within two (2) hours following the end of the training activity, but no later than the end of the EDCH's shift.
- E. Participant handlers receive CWS log in and password information upon arrival at the Canine Training Center (CTC) during the Explosion Detection Canine (EDC) training.

#### ARTICLE XXI – AGREEMENT MODIFICATIONS

- A. Changes and/or modifications to this Agreement shall be in writing and signed by the TSA CO and by an authorized representative of the Participant. The modification shall cite the Agreement number and shall set forth the exact nature of the change and/or modification. No oral statement by any person shall be interpreted as modifying or otherwise affecting the terms of this Agreement. Funding modifications may be awarded unilaterally by the TSA CO.
- B. All requests for interpretations of this Agreement or modifications to it shall be submitted in writing to the TSA CO.
- C. Budget Revisions.
  - 1. Proposed budget revisions require the TSA CO written approval prior to execution.
  - 2. Regardless of the amount of funding, the Participant shall obtain prior written approval from the TSA Contracting Officer for any budget revision which would result in the need for additional funds.
  - 3. If an Agreement provides funding for both construction and non-construction activities, the Participant must obtain written approval from the TSA Contracting Officer before making fund or budget transfers from non-construction to construction or vice versa.

#### ARTICLE XXII - CONSTRUCTION OF THE AGREEMENT

TSA enters into this Agreement pursuant to its "other transaction" authority under 49 U.S.C. § 106(l) and 114(m) (l). This Agreement is not a procurement contract, grant or cooperative agreement. Nothing in this Agreement shall be construed as incorporating by reference or implication any provision of Federal acquisition law or regulation. It is not intended to be, nor shall it be construed as creation of a partnership, corporation, or other business entity between the parties.

This Agreement and its attachments constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties.

In the event that any Article and/or parts of this Agreement are determined to be void, such Article or portions thereof shall lapse. No such lapse will affect the rights, responsibilities, and obligations of the parties under this Agreement, except as provided therein. If either party determines that such lapse has or may have a material effect on the performance of the Agreement, such party shall promptly notify the other party, and shall negotiate in good faith a mutually acceptable modification to the Agreement if appropriate to address the effect of the lapse.

#### ARTICLE XXIII - ATTACHMENTS AND GENERAL PROVISIONS

#### A. The following are hereby incorporated in full:

Statement of Joint Obligations Attachment 1: Reimbursable Items Attachment 2: Kennel Facilities Attachment 3: Kennel Inspection Form Attachment 4: Routine Veterinary Care Attachment 5: Canine Requirement Attachment 6: **EDCT Response** Attachment 7: Explosives Magazine and Bunker Maintenance Attachment 8: CETA Sign In – Sign Out Log Attachment 9: Attachment 10: Magazine Key Sign In – Sign/Out Log Attachment 11: Corrective Action Plan Utilization Certification Form Attachment 12: Attachment 13 Canine Accountable Training System (CATS) Requirements

- B. The following are hereby incorporated into this agreement by reference:
  - 1. 31 CFR 205 Rules and Procedures for Funds Transfers

For-profit organizations are subject to the provisions of 48 CFR Part 31, "Contract Cost Practices and Procedures."

Signature of Agency Representative	Title
Signature of Authorizing Official	Title
Printed Name of Authorizing Official	Name of Participating Agency
Date	
Branch Chief, National Explosives Detection Canine Team Program	Date

End of Agreement Number HSTS02-16-H-NCP439

APPROVED AS TO FORM:

County Counsel

Deputy